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**APR 17 2006**

**OFFICE OF PETITIONS**

In re Application of  
Madabushi et al.  
Application No. 10/040,539  
Filed: December 28, 2001  
Attorney Docket No. 4221 C6

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: DECISION DISMISSING LETTER  
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This letter is in response to applicants' "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT" filed September 19, 2005, advising the Office of a discrepancy in the PTA determination. The Office thanks applicants for their good faith and candor in bringing any discrepancy to the attention of the Office.

The letter submitted by Applicants is **Dismissed**. The patent term adjustment at the time of the mailing of the notice of allowance is confirmed.

Applicants assert that there is a discrepancy in the PTA determination as to what applicants' believe the value to be. Applicants believe the value is 352 days at the time of the mailing of the notice of allowance.

Upon review of the determination, the PTA determination is accurate. The Office notes that it failed to act upon the application within fourteen months of the filing of the application, a delay of four hundred and twenty-four (424) days.<sup>1</sup> See 37 CFR 1.702(a)(1). This delay was the only Office delay incurred by the USPTO. On one occasion, applicants failed to reply to the Office action within three months.<sup>2</sup> The delay amounted to thirty-seven days. Accordingly, the overall determination at the time of the mailing of the notice of allowance is three hundred and eighty-seven (424-37=387) days. The Office does not see any additional delays by the applicant that would amount to the 25 day discrepancy. If applicants want the Office to review any particular entry, applicant should outline such discrepancy.

The Office will forward the application to the Office of Publications for a prompt issuance of the patent.

The Office apologizes for any delay in issuance of the application into a patent. Any PTA related to failing to issue the application within four months of the payment of the issue fee as well as any failures to issue the application within three years will be determined at the time of the

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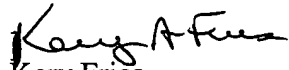
<sup>1</sup>The application was filed on December 28, 2001 and the requirement of 37 CFR 1.702(a)(1) was met on April 27, 2004, a 424 day delay.

<sup>2</sup>Applicants responded the Office action mailed 7/26/2004 on February 24, 2005,, a thirty-seven (37) day delay.

issuance of the patent and notice will be provided in the issue notification letter.

Because this letter was submitted out of good faith and candor, no fee will be assessed concerning this letter.

Any questions related to this decision can be addressed to Kery Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.



Kery Fries  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of Deputy Commissioner  
for Patent Examination Policy